

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

20009.0005USU1 (00-129)

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

09/749,399

Filed

December 28, 2000

First Named Inventor

Espejo

Art Unit

2617

Examiner

Beamer, T.M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Jeramie J. Keys/

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Signature

Jeramie J. Keys

Typed or printed name

☒ attorney or agent of record.  
Registration number 42,724

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Telephone number

☐ attorney or agent acting under 37 CFR 1.34.

June 9, 2008

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Espejo	Examiner:	Beamer
Serial No.:	09/749,399	Group Art Unit:	2681
Filed:	December 28, 2000	Docket No.:	20009.0005USU1 (BS00-129)
Title:	PRE-PAID WIRELESS INTERACTIVE VOICE RESPONSE SYSTEM WITH VARIABLE ANNOUNCEMENTS		

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**REQUEST FOR PRE-APPEAL BRIEF PANEL REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In conjunction with a Notice of Appeal, reconsideration and allowance of the application is respectfully requested for at least the following reasons. The Notice of Appeal is being filed in response to a final Office Action mailed on February 8, 2008.

**1. The claim recitations pertain to asking a number of transactions to be played back, not presenting a number of different types of transactions to select from**

In response to arguments presented by Applicant to the Office Action preceding the final Office Action, the final Office Action offers a response to Applicant's arguments. This "Response to Arguments" indicates that the claim recitations are being misinterpreted.

The claim recitations at issue are "wherein the menu driven system interacts with the customer to ask the customer a number of previous transactions to be played backed to the customer." The Office Action concludes that the arguments by Applicant are unpersuasive relative to Hitchings (U.S. Patent No. 6,594,484) because it is allegedly known that the user is prompted by the IVR system to listen to a number of different kinds of information that can be played back. The Office Action goes on to state that "once the customer listens to the number of different kinds of transactions, the user is then directed to select the desired information that should be recited back to the customer."

This language in the Office Action indicates that the claim language quoted above has been interpreted incorrectly. The claim language above pertains to the IVR system asking the customer a number of transactions to be played back. Thus, the IVR is asking the customer about how many transactions the IVR should play back to the customer, such as playback the last 2 transactions or playback the last 4 transactions. Examples of the transactions may be phone calls, so the customer may wish to hear the information the IVR has available about the last 2 or 4 phone calls, such as the cost of the calls, the length of the calls, and so forth.

The Office Action's discussion of the quoted language indicates that the claim language has instead been interpreted to refer to the customer listening to a number of different kinds of transactions that are available via the IVR. This interpretation is entirely at odds with the claim language itself. The claim language does not use "different kinds" in referring to the transactions, as that language has been added by the Office Action in setting forth the Examiner's disagreement with the previous arguments. Furthermore, the claim language pertains to asking the customer a number, not presenting a number to the customer. Thus, the interpretation apparently being applied by the Office

Action is not in accord with the actual language of the claim and is therefore, not permissible.

**2. Upon giving the claims the proper interpretation, it is evident that Hitchings fails to disclose such recitations**

Claim 1 recites in part, an IVR application on the peripheral device comprising a menu driven system adapted to receive information from a customer, wherein the menu drive system interacts with the customer to ask the custom a number of previous transactions to be played back to the customer. Applicant asserts that at least these recitations are not disclosed by Hitchings.

The Office Action concludes that because Hitchings describes the general usage of an IVR system in the background for purposes of banking customers to access their account information including getting amount due on loans, date and amount last deposited, and current interest rates on loans, that this evidences that the above mentioned claim recitations are disclosed by Hitchings. Applicant disagrees with this conclusion. While Hitchings does disclose the general use of an IVR system for banking customers to obtain information including that mentioned above, Hitchings fails to disclose that the IVR is being used to ask the customer a number of previous transactions to be played back to the customer. The claim recitations noted are beyond the general application of IVR to obtaining information about transactions, but are directed specifically to the IVR asking the customer for the number of transactions to be played back. Upon interpreting this claim language correctly, one can see that Hitchings does not disclose that the IVR system asks the customer to provide a number so that the IVR will know how many transactions the customer wants played back.

Thus, Hitchings fails to disclose at least these recitations of claim 1 such that claim 1 is allowable over Hitchings for at least these reasons. Dependent claims 2, 4, 6-9, 12, 13, and 15 depend from an allowable base claim and are also allowable for at least the same reasons.

Furthermore, one or more of these dependent claims are allowable for additional reasons. For example, dependent claim 8 recites that the transaction is a call and claim 9 recites that the system recites at least one of a cost of the call, a time the call was placed,

and a duration of the call. As conceded by the Office Action, Hitchings does not disclose any such information regarding calls. Regarding well known prior art, Applicant contends that it is not well known to recite such information about a number of previous transactions where the IVR has asked for the number of transactions to be played back.

As another example, claim 15 recites that the system recites the previous transactions back to the customer. As Hitchings fails to disclose that the IVR system asks for a number of transactions to be played back, it then logically follows that Hitchings fails to play that number of transactions back. Playing a transaction back where that specific transaction was alone requested by the user is not asking for a number of transactions to be played back and then reciting those previous transactions corresponding to that number that the customer has requested.

Claim 16 recites in part receiving information from a customer via a menu driven system of an IVR application on the peripheral device, wherein the menu driven system interacts with the customer to ask the customer a number of previous transactions to be played back to the customer. Applicant asserts that at least these recitations are not disclosed by Hitchings for the same reasons discussed above in relation to claim 1. Hitchings does not disclose the IVR system asking the customer a number of previous transactions to be played back. Thus, claim 16 is allowable over Hitchings for at least these reasons. Dependent claims 17-25 depend from an allowable base claim and are also allowable for at least the same reasons.

Furthermore, one or more of these dependent claims are allowable for additional reasons such as claims 21 and 22 where the transaction is a call. As another example, claim 25 recites that the previous transactions are recited back to the customer and Hitchings does not recite the previous transactions back as Hitchings does not ask for the number of transactions to be recited back.

### Conclusion

Applicant asserts that the application including claims 1, 2, 4, 6-9, 12, 13, and 15-25 is in condition for allowance. Applicant requests reconsideration in view of the remarks above and further request that a Notice of Allowability be provided. Should the Review Panel have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: June 9, 2008

/Jeramie J. Keys/

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